

## **Assembly Bill No. 424**

### **CHAPTER 318**

An act to amend Sections 21200, 21200.5, 21201, and 21201.4 of, and to add Section 21003 to, the Financial Code, relating to pawnbrokers.

[Approved by Governor September 26, 2011. Filed with  
Secretary of State September 26, 2011.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 424, Eng. Pawnbrokers.

Existing law regulates the sale and redemption of pledged property by pawnbrokers. Existing law authorizes a pawnbroker to charge or receive compensation at a rate not exceeding specified amounts based upon the unpaid principal balance of the loan, but at least \$3 per month. Existing law also sets forth a schedule of charges applicable to these loans and authorizes a pawnbroker to impose a charge of \$1 on any loan for not more than 30 days which does not exceed \$14.99. Existing law requires loans made by pawnbrokers to be evidenced by a written contract. Existing law requires a loan to which an original loan debt is applied to be processed as a new loan. A knowing violation of the provisions regulating pawnbrokers is a crime.

This bill would define the term "month" for purposes of these provisions to mean a period of time consisting of 30 consecutive calendar days and would make various conforming changes. The bill would prohibit a pawnbroker from charging or receiving compensation at a rate exceeding 2.5% per month on the unpaid principal balance of any loan and would specify that a pawnbroker may charge or receive compensation in an amount of \$3 per month if those other charges or compensation based upon the unpaid principal balance of a loan would be less. The bill would authorize a pawnbroker to impose a charge of \$1 on any loan for not more than 3 months which does not exceed \$14.99. The bill would make other clarifying changes to these provisions.

Because a knowing violation of these provisions by a pawnbroker would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 21003 is added to the Financial Code, to read:

21003. For purposes of this division, the term “month” means a period of time consisting of 30 consecutive calendar days.

SEC. 2. Section 21200 of the Financial Code is amended to read:

21200. (a) Except as otherwise provided in this chapter, no pawnbroker shall charge or receive compensation at a rate exceeding the sum of the following:

(1) Two and one-half percent per month on the unpaid principal balance of any loan.

(2) A charge not exceeding three dollars (\$3) a month on any loan when the monthly charge permitted by paragraph (1) would otherwise be less.

(b) One month’s interest may be charged for any part of the month in which pawned property is redeemed.

SEC. 3. Section 21200.5 of the Financial Code is amended to read:

21200.5. A pawnbroker may charge as prescribed in the following schedule:

#### Schedule of Charges

(a) A charge not exceeding one dollar (\$1) per month for the first three months may be made on any loan which does not exceed fourteen dollars and ninety-nine cents (\$14.99).

(b) A charge not exceeding three dollars (\$3) may be made on any loan for not more than three months of fifteen dollars (\$15) or more, but not exceeding nineteen dollars and ninety-nine cents (\$19.99).

(c) A charge not exceeding four dollars (\$4) may be made on any loan for not more than three months of twenty dollars (\$20) or more, but not exceeding twenty-four dollars and ninety-nine cents (\$24.99).

(d) A charge not exceeding five dollars (\$5) may be made on any loan for not more than three months of twenty-five dollars (\$25) or more, but not exceeding thirty-nine dollars and ninety-nine cents (\$39.99).

(e) A charge not exceeding six dollars (\$6) may be made on any loan for not more than three months of forty dollars (\$40) or more, but not exceeding forty-nine dollars and ninety-nine cents (\$49.99).

(f) A charge not exceeding seven dollars and fifty cents (\$7.50) may be made on any loan for not more than three months on any loan of fifty dollars (\$50) or more, but not exceeding sixty-four dollars and ninety-nine cents (\$64.99).

(g) A charge not exceeding eight dollars and fifty cents (\$8.50) may be made on any loan for not more than three months of sixty-five dollars (\$65) or more, but not exceeding seventy-four dollars and ninety-nine cents (\$74.99).

(h) A charge not exceeding ten dollars (\$10) may be made on any loan for not more than three months of seventy-five dollars (\$75) or more, but not exceeding ninety-nine dollars and ninety-nine cents (\$99.99).

(i) A charge not exceeding twelve dollars and fifty cents (\$12.50) may be made on any loan for not more than three months of one hundred dollars (\$100) or more, but not exceeding one hundred twenty-four dollars and ninety-nine cents (\$124.99).

(j) A charge not exceeding thirteen dollars and fifty cents (\$13.50) may be made on any loan for not more than three months of one hundred twenty-five dollars (\$125) or more, but not exceeding one hundred forty-nine dollars and ninety-nine cents (\$149.99).

(k) A charge not exceeding fifteen dollars (\$15) may be made on any loan for not more than three months of one hundred fifty dollars (\$150) or more, but not exceeding two hundred twenty-four dollars and ninety-nine cents (\$224.99).

(l) A charge not exceeding twenty dollars (\$20) may be made on any loan for not more than three months of two hundred twenty-five dollars (\$225) or more, but not exceeding three hundred twenty-four dollars and ninety-nine cents (\$324.99).

(m) A charge not exceeding twenty-five dollars (\$25) may be made on any loan for not more than three months of three hundred twenty-five dollars (\$325) or more, but not exceeding four hundred forty-nine dollars and ninety-nine cents (\$449.99).

(n) A charge not exceeding thirty-five dollars (\$35) may be made on any loan for not more than three months of four hundred fifty dollars (\$450) or more, but not exceeding five hundred ninety-nine dollars and ninety-nine cents (\$599.99).

(o) A charge not exceeding forty-five dollars (\$45) may be made on any loan for not more than three months of six hundred dollars (\$600) or more, but not exceeding seven hundred ninety-nine dollars and ninety-nine cents (\$799.99).

(p) A charge not exceeding fifty-five dollars (\$55) may be made on any loan for not more than three months of eight hundred dollars (\$800) or more, but not exceeding nine hundred ninety-nine dollars and ninety-nine cents (\$999.99).

(q) A charge not exceeding seventy dollars (\$70) may be made in any loan for not more than three months of one thousand dollars (\$1,000) or more, but not exceeding eleven hundred ninety-nine dollars and ninety-nine cents (\$1,199.99).

(r) A charge not exceeding eighty-five dollars (\$85) may be made on any loan for not more than three months of twelve hundred dollars (\$1,200) or more, but not exceeding fourteen hundred ninety-nine dollars and ninety-nine cents (\$1,499.99).

(s) A charge not exceeding one hundred dollars (\$100) may be made on any loan for not more than three months of fifteen hundred dollars (\$1,500) or more, but not exceeding seventeen hundred ninety-nine dollars and ninety-nine cents (\$1,799.99).

(t) A charge not exceeding one hundred twenty dollars (\$120) may be made on any loan for not more than three months of eighteen hundred dollars (\$1,800) or more, but not exceeding two thousand ninety-nine dollars and ninety-nine cents (\$2,099.99).

(u) A charge not exceeding one hundred forty dollars (\$140) may be made on any loan for not more than three months of twenty-one hundred

dollars (\$2,100) or more, but not exceeding twenty-four hundred ninety-nine dollars and ninety-nine cents (\$2,499.99).

(v) The monthly charge for any extension of a written contract required by Section 21201 or 21201.5 shall be computed in accordance with the provisions of Section 21200.

The schedule of charges prescribed by this section shall be posted in a place clearly visible to the general public.

SEC. 4. Section 21201 of the Financial Code is amended to read:

21201. Every loan made by a pawnbroker for which goods are received in pledge as security shall be evidenced by a written contract, a copy of which shall be furnished to the borrower. The loan contract shall provide a four-month loan period, shall set forth the loan period and the date on which the loan is due and payable, and shall clearly inform the borrower of his or her right to redeem the pledge during the loan period.

Every loan contract shall contain the following notice, in at least 8-point boldface type and circumscribed by a box, immediately above the space for the borrower's signature:

"You may redeem the property you have pledged at any time until the close of business on \_\_\_\_ [fill in date four months from date loan begins]. To redeem, you must pay the amount of the loan and the applicable charges which have accrued through the date on which you redeem."

Every pawnbroker shall retain in his or her possession every article pledged to him or her for a period of four months. During such period the borrower may redeem the articles upon payment of the amount of the loan and the applicable charges. If the borrower and the pawnbroker agree in writing that the pawned property may be stored off premises, following the request for redemption of the loan, the pawnbroker shall return the pledged property to the consumer the next calendar day when both the pawnbroker's store and the storage facility are open, not to exceed two business days.

If any pledged article is not redeemed during the four-month loan period as provided herein, and the borrower and pawnbroker do not mutually agree in writing to extend the loan period, the pawnbroker shall notify the borrower within one month after expiration of the loan period. If the pawnbroker fails to notify the borrower within one month after the expiration of the loan period, the pawnbroker shall not charge interest from the day after the expiration of the one-month period. The pawnbroker shall notify the borrower at his or her last known address of the termination of the loan period, by a means for which verification of mailing or delivery of the notification can be provided by the pawnbroker, and extending the right of redemption, during posted business hours, for a period of 10 days from date of mailing of that notice. The 10-day notice shall include a statement that: "If the tenth day falls on a day when the pawnshop is closed, the time period is extended to the next day that the pawnshop is open."

However, the posted schedule of charges required pursuant to Section 21200.5 shall contain a notice informing the borrower that if he or she desires, the pawnbroker shall send the notice of termination of the loan period by registered or certified mail with return receipt requested, upon

prepayment of the mailing costs. If any pledged article is not redeemed within the 10-day notice period, the pawnbroker shall become vested with all right, title, and interest of the pledgor, or his or her assigns, to the pledged article, to hold and dispose of as his or her own property. Any other provision of law relating to the foreclosure and sale of pledges shall not be applicable to any pledge the title to which is transferred in accordance with this section. The pawnbroker shall not sell any article of pledged property until he or she has become vested with the title to that property pursuant to this section. The sale of pledged property is a misdemeanor pursuant to Section 21209.

SEC. 5. Section 21201.4 of the Financial Code is amended to read:

21201.4. Charges for the first three months of any loan made pursuant to the written contract required by Section 21201 or 21201.5 shall be determined by the application of the schedule of charges contained in Section 21200.5. Charges for any extension of time following the first three months of any loan shall be determined by application of the schedule of maximum compensation contained in Section 21200.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.